IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWELFTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 18695 of 2004

Between:

Sri Venkateswara Agencies, Vetapalem, Prakasam District,
represented by its Proprietor Mr M. Narasimha Rao,
S/o. Lt. Pothuraju, aged 65 years **..... PETITIONER**

AND

1.The Additional Commissioner of Commercial Taxes(Legal),

O/o. The Commissioner of Commercial Taxes,
Excise & Commercial Taxes Buildings,

M.J. Road, Nampally, Hyderabad.
2.The Appellate Deputy Commissioner of Commercial Taxes,

Guntur, Guntur District.
3.The Commercial Tax Officer,

Vetapalem, Prakasam District **.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction particularly in the nature of Writ of Mandamus declaring the impugned proceedings of the first respondent in the CCT's Ref No. LV(2)/2301/2004 dated 13-9-2004 dismissing the stay petition filed by the petitioner firm for assessment year 2002-2003 as illegal, arbitrary, amounting the total taxation in view of the revisions/proceedings issued by the revisional assessing authorities on the manufacturers levying tax on the alleged rental values @ 12 % in terms of Entry-21 of the 6th Schedule to the APGST Act and consequently directing the third respondent not to take coercive steps for recovery of the tax in dispute for the above mentioned assessment years, pending disposal of the appeal petition on the file of Appellate Deputy Commissioner of Commercial Taxes, Guntur.

Counsel for the Petitioner: MR.M.V.J.K.KUMAR

Counsel for the Respondent No.: GP FOR COMMERCIAL TAXES

The Court made the following:

ORDER: (PER Sri Bilal Nazki, J)

Heard learned Counsel for the parties. With their consent, the Writ Petition is being disposed of at this stage.

The controversy is that pending an appeal, application for stay was dismissed by the competent authority. We have gone through the record. We feel that the interest of justice would have been met if stay was granted pending appeal, subject to deposit of half of the liability. Therefore, we set aside the order of the authority and direct that half of the disputed tax liability shall be paid by the petitioner within a period of four weeks. For four weeks, there shall be an unconditional stay and the stay shall continue till disposal of the appeal, provided the amount is deposited within four weeks. The deposit of amount shall be without prejudice to the rights of the petitioner in the appeal. However, it is made clear that, the 12.5% of disputed tax liability, which was already deposited by the petitioner at the time of filing first appeal shall be given credit to, while caliculating 50% of the disputed tax liability.

Writ Petition is disposed of accordingly. No costs.

(BILAL NAZKI, J)

12th October, 2004

(S.ANANDA REDDY, J)

Note:

Issue CC by tomorrow.

B/o

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Copy to:

1.The Additional Commissioner of Commercial Taxes(Legal),

O/o. The Commissioner of Commercial Taxes,
Excise & Commercial Taxes Buildings,

M.J. Road, Nampally, Hyderabad.
2.The Appellate Deputy Commissioner of Commercial Taxes,

Guntur, Guntur District.
3.The Commercial Tax Officer,

Vetapalem, Prakasam District

4.Two CCs to the G.P. for Commercial Taxes,

High Court Buildings, High Court of A.P.,

Hyderabad (O.U.T.)

5.Two CD copies.